

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE: OUT-OF-DISTRICT SUBPOENA
TO TENET HEALTHCARE
CORPORATION

Misc. Action 4:20-mc-6

DAVID E. CARBONE

Plaintiff,

vs.

CABLE NEWS NETWORK, INC.,

Defendant.

Original Action:

Case No. 1:16-cv-1720-SCJ

United States District Court for the Northern
District of Georgia

**CABLE NEWS NETWORK, INC.’S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS BY TENET HEALTHCARE CORPORATION**

Comes now, petitioner Cable News Network, Inc. (“CNN”), through the undersigned counsel, and respectfully requests that the Court compel Tenet Healthcare Corporation (“Tenet”) to comply promptly and fully with the subpoena *duces tecum* (App’x 1–40) issued in *Davide Carbone v. Cable News Network, Inc.*, Case No. 1:16-cv-1720-SCJ, currently pending in the United States District Court, Northern District of Georgia (“Carbone Action”).¹ See App’x 41–

¹ CNN also issued a subpoena *duces tecum* to Tenet in a companion case, *Michael D. Black, MD, MBA, v. Cable News Network, Inc., et al.*, Case No. 502016-CA-001517XXXXMB, currently pending in the 15th Judicial Circuit of Florida, Palm Beach (“Black Action”). Due of the factual overlap in both defamation actions, so far as Tenet is involved, CNN’s subpoena in the Carbone Action and the one in the Black Action seek substantially the same electronic documents. CNN agreed to allow Tenet to consolidate its production of electronic documents in response to both subpoenas, but Tenet refused to produce. Accordingly, in addition to this Motion, CNN filed a motion to compel Tenet’s production under the subpoena in the Black Action in the 192nd Judicial District Court of Dallas County, Texas, Cause No. DC-17-10298. That Court will hear CNN’s motion to compel Tenet’s production on January 13, 2020.

95 (Complaint). CNN files its Motion pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, which provides that “[i]f an objection is made, . . . [a]t any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.” Fed. R. Civ. P. 45(d)(2)(B).

For the reasons stated in the accompanying Brief in Support of Motion to Compel, CNN respectfully requests that the Court reject Tenet’s request for CNN’s payment of its attorneys’ fees and expenses as a condition to its production of electronic documents, order Tenet to produce the electronic documents responsive to CNN’s subpoena without further delay, and overrule Tenet’s claims of privilege as to documents relating to Dr. Michael D. Black’s departure and Tenet’s payment of his legal fees.

Dated: January 9, 2020

Respectfully submitted,

CIRCELLI, WALTER & YOUNG, PLLC

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on December 19, 2019, counsel for Defendant Cable News Network, Inc., Jacquelyn Schell and Chittam U. Thakore, held a telephonic conference with counsel for Tenet Healthcare Corporation, Jason Bloom and Taryn McDonald. Counsel were unable to resolve the impasse on the issues addressed in Cable News Network, Inc.'s Motion to Compel. Consequently, the Motion is OPPOSED.

/s/ Vincent P. Circelli

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of January 2020, a true and correct copy of the foregoing document was duly served, in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure, by electronic mail to the following counsel for Tenet Healthcare Corporation, upon counsel's written consent to such service:

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